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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

RESIDENCE MUTUAL INSURANCE  
COMPANY as Subrogee of MARIZOL  
HUDSON,

Plaintiff,

vs.

BROAN-NUTONE, LLC, a Delaware  
corporation; NUTONE, INC., a Delaware  
corporation; and DOES 1 through 25,  
Inclusive,

Defendants.

CASE NO. 2:23-cv-1198 JDP

**SECOND STIPULATION AND JOINT  
REQUEST TO MODIFY THE  
SCHEDULING ORDER; AND  
~~[PROPOSED]~~ ORDER THEREON**

*[Assigned for all Purposes to Magistrate  
Judge, Hon. Jeremy D. Peterson]*

TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR  
ATTORNEYS OF RECORD:

Pursuant to Federal Rule of Civil Procedure 16(b)(4), Plaintiff RESIDENCE  
MUTUAL INSURANCE COMPANY as Subrogee of MARIZOL HUDSON ("Plaintiff"),  
and Defendant BROAN-NUTONE, LLC (hereinafter "Defendant")(hereinafter,  
collectively, the "Parties"), by and through their respective counsel of record, hereby  
stipulate, agree, and request that this Court modify the Pre-Trial Scheduling Order(s) (ECF  
Nos. 13 and 16) ("Scheduling Order(s)") to adjust the fact and expert discovery deadlines,  
and extend all applicable deadlines by approximately 90 days. Good cause exists as  
follows:

WHEREAS, on or about October 23, 2023, this Court issued its Scheduling Order  
(ECF No. 13).

WHEREAS, on or about April 4, 2024, this Court issued its Order Modifying the  
Scheduling Order pursuant to the parties stipulation. Therein, in relevant part, this Court  
ordered the following be completed:

September 13, 2024: Close of Fact Discovery (including last day to hear motions to  
compel on fact discovery)

October 11, 2024: Designation of Expert Witnesses

November 15, 2024: Designation of Rebuttal Expert Witnesses

December 13, 2024: Close of Expert Discovery

January 30, 2025: Last Day to Hear Dispositive Motions

WHEREAS, the Parties have exchanged initial disclosures and propounded written  
discovery on the other, but the need for a Protective Order arose. Thereafter, the Parties  
engaged in lengthy meet and confer and have since agreed-upon and submitted a  
Stipulation and [Proposed] Protective Order to this Court. Once the Protective Order is  
issued, the Parties will be in a position to provide responses to discovery and produce  
responsive documents.

1 WHEREAS, the parties have also deposed several percipient witnesses, including  
2 responding fire department personnel and two persons at home at the time of the fire.

3 WHEREAS, the Parties also intend to depose the two homeowners whose insurance  
4 claim gives rise to Plaintiff's subrogation action. There have been delays, however,  
5 including difficulty effecting service on the two witnesses, as well as technical difficulties  
6 in accomplishing the remote depositions. Nonetheless, the Parties are working collectively  
7 to depose the two homeowners and anticipate completing the same within the next 30  
8 days.

9 WHEREAS, the Parties also anticipate the needs to depose the insured's  
10 Independent Adjuster, the contractor who performed repairs on the subject property, as  
11 well as Plaintiff's and Defendant's Person(s) Most Qualified. The parties have met and  
12 conferred as to the scope of these depositions and anticipate completing these depositions  
13 in the next 30days.

14 WHEREAS, the Parties also anticipate submitting their matter to private mediation.  
15 In order to avoid unnecessary cost and expense of expert discovery, however, the Parties  
16 request this Court modify the Scheduling Order such that fact discovery be completed,  
17 followed by designation of expert witnesses, and then the completion of expert discovery.  
18 This will allow the Parties to complete fact discovery and participate in a meaningful  
19 mediation without incurring the unnecessary cost of expert discovery.

20 WHEREAS, a brief continuance (90 days) will allow the Parties to complete the  
21 aforementioned written discovery (including responses and document production), the  
22 foregoing fact depositions, and submit this matter to private mediation in advance of  
23 designation of expert witnesses and the completion of expert discovery.

24 WHEREAS, this is the Parties' second request to modify the Scheduling Order, but  
25 the first request was due, in part, to a request to restructure the prior scheduling order (i.e.,  
26 that designation of experts to follow completion of fact discovery), as well as a change in  
27 handling attorney for Defendant. In addition, the parties have working collectively to

1 resolve their disputes as to the protective order and to resolve scheduling and technology  
2 complications to accomplish the necessary discovery. No party will be prejudiced by the  
3 modification of the Scheduling Order and/or the requested brief continuance.

4 THEREFORE, the Parties stipulate and agree, and hereby request, that this Court  
5 modify the Scheduling Order and issue a new order such that the following should be  
6 completed:

7 December 13, 2024: Close of Fact Discovery (including last day to hear motions to  
8 compel on fact discovery)

9 January 10, 2025: Designation of Expert Witnesses

10 January 31, 2025: Designation of Rebuttal Expert Witnesses

11 February 28, 2025: Close of Expert Discovery

12 April 25, 2025: Last Day to Hear Dispositive Motions

13 Further Scheduling: Further Status Conference after the passage of the  
14 Dispositive Motion Deadline.

1 DATED: August 20, 2024

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STUTMAN, P.C.

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4 By: /s/ Timothy E. Cary  
5 Timothy E. Cary  
6 Attorneys for GENERAL INSURANCE  
7 COMPANY OF AMERICA as Subrogee of  
8 VINH DINH and NGOC TRUONG

9 DATED: August 20, 2024

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11 By: /s/ Steven A. Scordalakis  
12 Krsto Mijanovic  
13 Steven A. Scordalakis  
14 Attorneys for BROAN-NUTONE, LLC  
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**~~PROPOSED~~ ORDER**

Pursuant to the Parties' Stipulation and Joint Request to Modify the Scheduling Order, and having found good cause therefor, this Court hereby GRANTS the Parties' request and orders as follows:

December 13, 2024: Close of Fact Discovery (including last day to hear motions to compel on fact discovery)

January 10, 2025: Designation of Expert Witnesses

January 31, 2025: Designation of Rebuttal Expert Witnesses


February 28, 2025: Close of Expert Discovery

April 25~~24~~, 2025: Last Day to Hear Dispositive Motions

If appropriate, this Court will set a Further Status Conference after the passage of the Dispositive Motion Deadline.

IT IS SO ORDERED.

Dated: August 26, 2024

  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE